

86-988

IN THE  
**SUPREME COURT OF THE UNITED STATES**

Supreme Court, U.S.  
FILED

JAN 9 1987

WES F. SPANIOL, JR.  
CLERK

October Term, 1986

L.D. JAMESON,

*Petitioner,*

v.

BETHLEHEM STEEL CORPORATION  
THE PENSION PLAN OF BETHLEHEM  
STEEL CORPORATION AND  
SUBSIDIARY COMPANIES, ALSO  
KNOWN AS BETHLEHEM 1977  
SALARY PENSION PLAN AND THE  
GENERAL PENSION BOARD,  
BETHLEHEM STEEL CORPORATION  
AND SUBSIDIARY COMPANIES,

*Respondents.*

ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE THIRD CIRCUIT

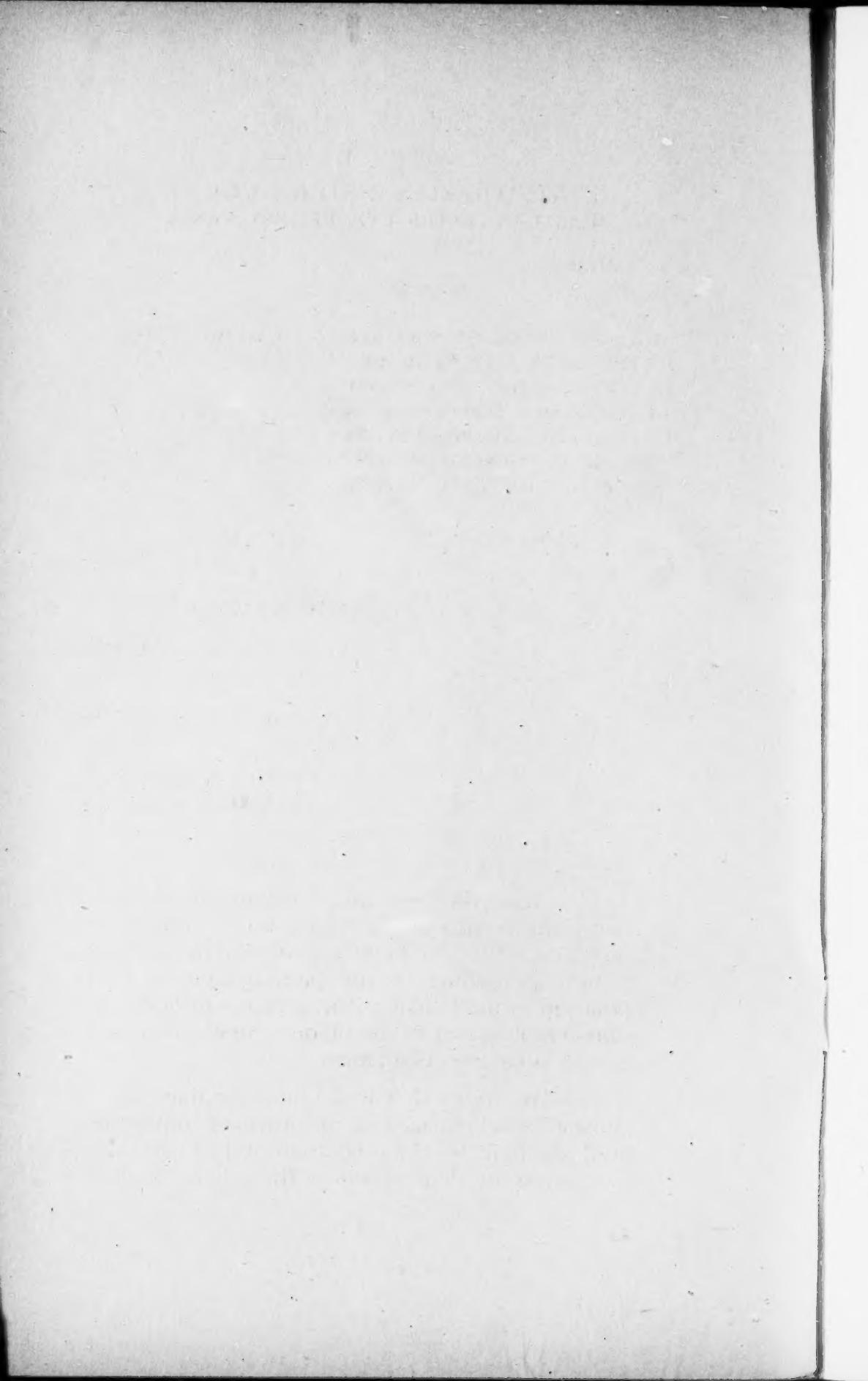
**APPENDIX TO  
BRIEF OF RESPONDENTS IN OPPOSITION**

DONA S. KAHN, ESQUIRE  
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*Attorneys for Respondents*

Of Counsel:

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Martin Tower — Room 2086  
Bethlehem, PA 18016  
(215) 694-6750



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

L. D. JAMESON, )  
Plaintiff, )  
vs. ) Case No. 83-6006  
BETHLEHEM STEEL CORPORATION, )  
THE PENSION PLAN OF BETHLEHEM )  
STEEL CORPORATION AND SUBSID- )  
IARY COMPANIES, also known as )  
BETHLEHEM 1977 SALARIED PENSION )  
PLAN, and the GENERAL PENSION )  
BOARD, BETHLEHEM STEEL CORPORA- )  
TION AND SUBSIDIARY COMPANIES. )  
Defendants. )

**AFFIDAVIT OF DAVID W. KEMPKEN**

I, DAVID W. KEMPKEN, being duly sworn, depose and say as follows:

1. I am of legal age and sound mind, and I am competent to make this Affidavit.
2. I am the Secretary of the General Pension Board of the Pension Plan of Bethlehem Steel Corporation and Subsidiary Companies ("Pension Plan"). I am also the Plan Administrator.
3. I have reviewed the allegations in Plaintiff's Complaint in this action which was served on December 20, 1983; and I have examined the pertinent records pertaining to the participation of L. D. Jameson in the Pension Plan arising out of his previous employment by Bethlehem Steel Corporation and its subsidiary companies.
4. Any rights that L. D. Jameson may have to pension benefits based on his previous employment by Bethlehem Steel Corporation and its subsidiary companies are determined by the provisions of the

Pension Plan. A true and correct copy of the Pension Plan is attached as Exhibit A and incorporated in this Affidavit.

5. According to the pertinent records, L. D. Jameson was employed by the Iron Mines Company of Venezuela, a wholly-owned subsidiary of Bethlehem Steel Corporation, from May 5, 1953 until February 28, 1970. On the termination of his employment in Venezuela, he was paid "Cesantia" and "Antiquedades" in the total sum of \$56,492 which resulted in a break in his continuous service under the Plan. He had the option of repaying the "Cesantia" and "Antiquedades" when he was reemployed by Bethlehem Mines Corporation in Spain and having the break removed and his previous service in Venezuela restored for the purpose of pension benefits. However, he elected to retain the "Cesantia" and "Antiquedades" and to begin as a new employee with Bethlehem Mines Corporation. He was employed by Bethlehem Mines Corporation in Spain from March 1, 1970 to May 31, 1975. He was employed by Bethlehem Steel Corporation from June 1, 1975 until February 29, 1980. During much of that period he was employed in Sierra Leone, but he returned to the United States in 1979. He was nominally employed at 50 percent of his regular salary from March 1, 1979 through February 29, 1980. He resigned as of February 29, 1980.

6. L. D. Jameson has qualified for a deferred vested pension under the Pension Plan, based on his service with Bethlehem Mines Corporation and with Bethlehem Steel Corporation from March 1, 1970 until February 29, 1980. He has the option of electing pension benefits at age 65 or of electing a reduced pension benefit at any time after reaching age 60.

7. In my position as Secretary and Plan Administrator, I made the determination that L. D. Jameson was not entitled to credit for the purpose of the Pension Plan for the length of his employment with the Iron Mines Company of Venezuela. The General Pension Board reviewed and upheld my determination.

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DAVID W. KEMPKEN

Sworn to and subscribed before me this  
20th day of January,  
1984.

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NOTARY PUBLIC

My Commission Ex-  
pires April 30, 1987  
City of Bethlehem  
Lehigh County

**INTER-OFFICE CORRESPONDENCE  
BETHLEHEM STEEL**

January 27, 1967

**From G. C. Vary, Secretary, General Pension Board  
To E. P. Leach, Vice President**

**Subject Home Office Roll Salaried Employees Working at Foreign Locations  
Treatment of Separation Benefits Under Bethlehem Pension Plan**

This will clarify the application of certain of the points covered in the February 16, 1959, letter from the Secretary of the General Pension Board on the above-captioned subject.

The contents of the February 16, 1959, letter were directed to employees working in foreign countries who are paid from the Home Office Roll and who had never received cesantia and antiquedad on account of employment with Bethlehem but who would retire in the future and would, upon such retirement, be simultaneously eligible for (1) cesantia and antiquedad and (2) a Bethlehem pension.

It was not the intent to give any options as to the time of repayment of cesantia and antiquedad to employees who are transferred from Iron Mines Company of Venezuela to a stateside position at any time during their active employment. To restate what our policy in such cases is:

- In the case of any "terminated" Iron Mines Company of Venezuela employee who is immediately rehired at another Bethlehem operation, the payment of cesantia and antiquedad represented a "pay-off" for the years of service during which such payment was built up and unless he repays that amount under an arrangement acceptable to the company *at the time* he is rehired at another Bethlehem operation, he begins at such other operation as a new employee.

This policy parallels the handling of severance allowance payments to employees who are terminated from one Bethlehem operation in the states and are subsequently rehired at that or another state-side Bethlehem operation.

If you have any question concerning the clarification contained above of the February 16, 1959, letter, I will be pleased to discuss the matter further with you.

G. C.  
Secretary, General Pension Board

**BETHLEHEM  
1977 SALARIED  
PENSION PLAN**

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Pension Plan of Bethlehem Steel Corporation and Subsidiary Companies adopted January 25, 1923, as amended July 31, 1977, and further amended July 1, 1979, as to paragraph 3.12, applicable to eligible salaried employees entitled for such month based on the law in effect at the time the surviving spouse's benefit first becomes payable (without regard to any offset or suspension imposed by such law). If the surviving spouse is not eligible for such a widow's or widower's benefit for such month, the amount of the reduction shall be equal to 50% of the amount of the widow's or widower's benefit that could have become payable to the surviving spouse for such month, based on the participant's wages, if the surviving spouse had been eligible and had applied for such a benefit.

- (e) If the surviving spouse receives, or upon application would be entitled to receive, any payment derived from rights acquired by the participant, which would if received by the participant have been subject to deduction under paragraph 3.8 from any regular pension otherwise payable to the participant (except

any such payment received by the surviving spouse by reason of an election by the participant to receive a reduced payment), the amount of such payment not attributable to the contributions of the participant shall be deducted from the surviving spouse's benefit otherwise determined under this paragraph 4.3.

- (f) Notwithstanding anything to the contrary in this paragraph 4.3, the amount determined in accordance with paragraph 3.3(b)(3) will be subject to the reductions provided for in paragraph 3.7(b) beginning with the month in which the participant would have attained age 65.

#### COMMENCEMENT AND TERMINATION OF BENEFIT

The first installment of any surviving spouse's benefit shall be payable for the month following the month in which the participant shall die, and the last installment shall be payable for the month in which the surviving spouse shall die; provided, however, that a surviving spouse's benefit shall not be payable for any month for which a special payment was payable to the participant. In connection with an application for a surviving spouse's benefit, the Plan Administrator may require the surviving spouse to grant any authorization necessary to receive relevant records from the agency administering the law referred to in paragraph 4.3(d).

#### DETERMINATION OF STATUS AS SURVIVING SPOUSE

- 4.5 A person shall be considered a surviving spouse for the purposes of this Section 4 only if,

(a) immediately after a participant's death, such person is a widow or widower of such participant within the provisions of the Social Security Act, except that where such Act requires reference to the law of the District of Columbia, the applicable law shall be that of the state of Pennsylvania, and

(b) with respect to a participant who dies after retirement and after attainment of age 65, such person was

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married to the participant not later than the participant's 65th birthday or his date of retirement, whichever is later; provided, however, that with respect to a person who married a participant after such participant's retirement and 65th birthday, such person was married to the participant for at least three years at the time of the participant's death. In any event no more than one person shall be considered a surviving spouse for the purposes of this Section 4 and if, at the time of the participant's death, a person has been divorced from the participant and such participant has remarried, such person shall not be considered a surviving spouse.

- 4.6 The Plan Administrator shall make reasonable effort by an appropriate method or methods to inform the surviving spouse of an eligible participant of the existence of this benefit.

#### **SURVIVING SPOUSE OF PART-TIME PARTICIPANT**

- 4.7 In the case of a surviving spouse of a deceased part-time participant, notwithstanding the provisions of paragraph 4.2, the amounts set forth in such paragraph 4.2 shall be reduced on the same basis as is provided in paragraph 3.6 for the reduction of the minimum pension of a part-time participant, whether or not the minimum pension was applicable to such deceased part-time participant.

### **SECTION 5. DETERMINATION OF CONTINUOUS SERVICE**

- 5.1 The term "continuous service" as used in this Plan means continuous service in the employ of one or more of the Employing Companies, except as in this Section 5 otherwise provided, prior to retirement calculated from the Employee's last hiring date (this means in the case of a break in continuous service, continuous service shall be calculated from the date of reemployment following the last unremoved break in continuous service) in accordance with the

**TABLE COPY**

following provisions; provided, however, that the last hiring date prior to the effective date of this Plan shall be based on the practices in effect at the time the break occurred:

(a) There shall be no deduction for any time lost which does not constitute a break in continuous service, except that in determining length of continuous service for pension purposes:

(1) that portion of any absence which continues beyond two years from commencement of absence due to a layoff or disability shall not be creditable as continuous service; provided, however, that absence in excess of two years due to a compensable disability incurred during course of employment shall be creditable as continuous service, if the Employee is returned to work within 30 days after final payment of statutory compensation for such disability or after the end of the period used in calculating lump sum payment, and

(2) the period between a break in service and the date of reemployment which results in the removal of a break in accordance with (c) below shall not be creditable as continuous service.

(b) Continuous service shall be broken by:

(1) quit;

(2) discharge, provided that if the Employee is rehired within six months the break in continuous service shall be removed;

(3) termination of employment due to permanent shutdown of a plant, department or subdivision thereof;

(4) absence which continues for more than two years, except that (i) absence in excess of two years due to a compensable disability incurred during

course of employment shall not break continuous service, provided the Employee is returned to work or retires within 30 days after final payment of statutory compensation for such disability or after the end of the period used in calculating a lump sum payment; (ii) if an Employee absent on account of layoff or disability in excess of two years returns to work with an Employing Company within three years or the excess, if any, of his length of continuous service at commencement of such absence over two years, whichever is less, the break in continuous service shall be removed; and (iii) the continuous service of an Employee whose absence was due to his being unable to work because of non-occupational disability and who returned to work prior to January 4, 1960, shall not be deemed to be broken on account of such absence, but the excess of his period of absence over six months shall not be included as a part of his continuous service.

If any Employee shall, subsequent to May 1, 1940, have entered the military, naval or merchant marine service of the United States, shall have had reemployment rights under the law, shall have complied with the requirements of law as to reemployment and shall have been reemployed, his continuous service shall not be considered to be broken by his absence on account of such military, naval or merchant marine service.

(c) Except as otherwise provided in (b)(2) and (b)(4)(ii) above, an Employee who on or after January 1, 1976, incurs a break in continuous service prior to becoming eligible for an immediate or deferred vested pension and who is reemployed by an Employing Company shall, upon completion of one year of continuous service following such reemployment, have such break in continuous service removed if the period of continuous service accrued prior to the break is in excess of the period between the break and the date of reemployment.

5.2 For the sole purpose of determining eligibility for pension pursuant to paragraph 2.1 or unreduced pension commencing at age 65 pursuant to paragraph 2.8, an Employee who on or after January 1, 1976, incurs a break in continuous service by reason of quit or discharge prior to becoming eligible for an immediate or deferred vested pension, who is reemployed within one year of such quit or discharge without having his break in continuous service removed pursuant to paragraph 5.1(b)(2) above and who upon incurring a subsequent break in continuous service has less than 10 years of continuous service calculated in accordance with paragraph 5.1 above shall receive credit for the continuous service accrued prior to the first break described above and for the period between such break and the date of reemployment plus any other continuous service which would result from application of paragraph 5.1(c) taking into account service credited pursuant to this paragraph.

(a) Subject to action by the General Pension Board, the number of years of continuous service of any participant shall be conclusively determined for all purposes of this Plan by the Plan Administrator. Service with an Employing Company not covered by this Plan or service with a subsidiary company which has not adopted this Plan, with an affiliated company or with a joint venture may be granted under this Plan in accordance with rules and regulations adopted by the General Pension Board; provided, however, that such rules and regulations will apply uniformly to all similarly situated individuals.

(b) For all participants who were former employees of another employer designated by the General Pension Board as being engaged in activities relating to or affecting the interests of any of the Employing Companies or a predecessor company, the number of years of service (excluding any period of service for which the participant is entitled to a vested benefit under another pension

plan) with such other employer shall be included in continuous service for purposes of this Plan; provided, however, that all eligible employees of such other employer who shall become employees of an Employing Company shall become participants in this Plan and shall be treated uniformly so that the inclusion of such service in continuous service does not result in discrimination in favor of employees who are officers, shareholders or highly compensated, and provided, further, that no participant first employed on or after July 31, 1968, shall be given credit for any service in the employ of any employer other than an Employing Company unless such employer either becomes an Employing Company or is merged into an Employing Company or unless this Plan shall be amended to specifically provide for the crediting of service in the employ of such employer.

## **SECTION 6. REEMPLOYMENT AFTER ATTAINMENT OF PENSION ELIGIBILITY**

### **APPLICABILITY OF OTHER SECTIONS**

6.1 Except as otherwise provided in this Section 6, the provisions of all other sections of this Plan shall be applicable to any participant who is reemployed by an Employing Company after having been retired and receiving a pension or after having attained eligibility for a deferred pension under this Plan or under another pension plan of Bethlehem Steel Corporation and Subsidiary Companies (herein "prior Plan").

### **EFFECT ON PENSION AND AUTOMATIC 50% SPOUSE OPTION**

6.2 (a) Any participant who has been retired and receiving a pension under this or a prior Plan shall upon reemployment by an Employing Company have his pension discontinued.

(b) If such participant had an Automatic 50% Spouse Option pursuant to paragraph 3.15 of this Plan in

effect, such Automatic 50% Spouse Option shall become null and void upon reemployment; provided, however, that if such participant has a spouse on the date of reemployment who was eligible to receive payments under the Automatic 50% Spouse Option upon the participant's death, such participant will be automatically covered by Pre-Pension Spouse Coverage pursuant to paragraph 3.14 of this Plan effective as of the date of reemployment unless the participant revokes such coverage within 30 days of reemployment. Upon subsequent retirement, a reemployed participant shall have the right to accept or reject the Automatic 50% Spouse Option in accordance with paragraph 3.15.

**CONTINUOUS SERVICE OF REEMPLOYED PARTICIPANT**

6.3 Any participant who has been retired and receiving a pension or

FOR INTER-OFFICE CORRESPONDENCE  
IRON MINES COMPANY OF VENEZUELA  
CARACAS, D. F.

September 6, 1966

FILE REFERENCE CV-6518

FROM W. H. Shingler, Vice President and Manager,  
Caracas

TO L.D. Jameson, Manager of Operations, El Pao  
SUBJECT H. O. PERSONNEL TERMINATION PAY-  
MENTS IN VENEZUELA

The case of the treatment of Venezuelan termination payments for H. O. Personnel was discussed with Mr. Tebelman on August 4, 1966 in Bethlehem.

The policy which resulted the above discussion is as follows:

When a H. O. employee such as Brisky or Jackson terminates his employment in Venezuela and transfers to another Bethlehem operation, or retires with pension rights you will make clear to him the conditions of A. M. Rupkey to A.F.P. letter dated February 16, 1959. Also pertaining to the same subject are letters AFP — J. M. Larkim of January 2, 1959 and AFP — LCY of April 1, 1959.

The above will assure us that the H. O. employee understands and indicates his preference with regard to any termination payments, pension etc., that pertain to his case.

After you advise the office of the decision the employee makes the Bethlehem office will be notified. This procedure will insure that the employee understands his rights with the company and the transfer or termination conditions for his services in Venezuela.

By policy final disposition is made in the Bethlehem office but it is important to clarify the local aspects and have it on record with concurrence from Bethlehem prior to departure of the employee.

If copies of the above letters are not in your files you may obtain them from accounting or this office.

W. H. Shingler

**MATTERS TO BE DISCUSSED WITH MR. C. G.  
TEBELMAN**

1. What is the deadline for me to decide whether I want to receive my severance pay and give up my Venezuelan service for retirement?

2. El Pao received only one booklet that describes the current retirement plan. W. A. Jimenez would like to have at least one more book.

3. I will leave Bethlehem on February 28 for a week of vacation in El Paso, Texas, and meet Mr. Leach in New York on March 7, for trip to Spain. I would like to know when I can take my next regular vacation — from Spain. Will it be one month each year or something else? I would like to have the information so that I can arrange for my next medical exam.

4. I would like to have any salary information — the places it will be paid, the amounts, and the currencies.

5. Carl Christmann.

6. I have no Spanish visa. I understand U. S. citizens do not need visas to enter Spain. Do I need any special documentation to cover my residence there?

L.D.J.

**Bethlehem Steel Corporation**  
BETHLEHEM, PA 18016

March 23, 1979

Mr. L. D. Jameson  
1705 Princess Jeanne Drive  
Las Cruces, New Mexico 88001

Dear Dowd:

This is with reference to your meeting on Friday, March 2, 1979, with H. J. Ashe and M. H. Davidson, and your comments/questions about the memorandum dated February 15, 1979 (See Attachment A) concerning the mutually agreed upon terms of your impending resignation effective February 29, 1980.

A list of your comments/questions (See Attachment B) has been prepared and reviewed with appropriate Bethlehem departmental representatives. The following is our reply to your questions (references are to Attachment B):

1. With reference to item #1 and the question concerning your termination date with Sierra Rutile Limited, we have reviewed this matter with our Accounting Department and have been advised that your tax settlement in Sierra Leone for 1979 was Le 529.14 and that you can deduct this as a Foreign Tax Credit. Since you performed work and were a resident in Sierra Leone in January, 1979, and received wages from which taxes were deducted for such services while employed with SRL, the effective date of your termination from SRL is, and will remain, January 31, 1979.

2. With reference to your questions under item #2, the salary paid, or to be paid, to you for the period February 1, 1979, to February 29, 1980, will be considered United States source income, and, as such, will be subject to Federal Income Tax withholdings based on your W-4 Form on file showing you are

married claiming two exemptions. Accordingly, social security deductions will be made.

Since you will not be residing in Pennsylvania, Pennsylvania State Income Tax and local taxes will not be deducted. Accordingly, such taxes, which were deducted from your February, 1979 earnings, will be refunded to you.

We prepared a "Change in Address" form for you and submitted it to L. M. Anthony's office which changed your taxing jurisdiction to Las Cruces, New Mexico, the address you submitted to us. Salary paid to you, or to be paid to you, for the period March 1, 1979, to February 29, 1980, therefore, will be subject to New Mexico State Income Tax deductions. In the future, please promptly notify us of any change in your address.

3. With reference to your questions listed under item #3, your insurance coverage will continue through February 29, 1980, as if you were a member of the Management Group. As such, your stock options will be valid through February 29, 1980. As agreed, you will not be eligible for an annual physical examination in 1980.

4. With reference to your questions concerning vacation entitlements listed under item #4, we checked our records and determined that you did elect to take the January, 1979, ESVP election option as time-off and not in cash. Accordingly, the calculation under item 2.b. (Attachment A) has been changed to include the January, 1979 ESVP week election to be received in cash. Payment for this ESVP week will be based on your prior 6 months' earnings (July 1, 1978, to December 31, 1978).

The 6 weeks' calculation for 1980, however, is correct. Since your termination date with Bethlehem

will be February 29, 1980, you are not eligible for the July, 1980 ESVP election option.

5. With reference to item #5, a statement of your Savings Plan account as of December 31, 1978, will be mailed to you during March, 1979. A Savings Plan change in address form is attached for your signature. Please retain the triplicate copy for your file and return the other copies to us.

6. With reference to your questions concerning payment of storage costs and shipment of household effects; as agreed, we will continue to pay for storage of your household effects in Madrid, Spain, for a period of up to 6 months (through July 31, 1979). Shipping expenses incurred in moving such household effects to a warehouse in El Paso, Texas, or Southern New Mexico, to be designated by you, will be paid if such shipping occurs within 6 months (on or before July 31, 1979). We have confirmed arrangements with Bethlehem's Transportation Department (in New York) for you to arrange actual shipment of household effects from Madrid. You should forward a packing list and the warehouse receipt to:

W. F. Gardner, Manager of Export  
Bethlehem Steel Corporation  
One State Street Plaza  
New York, New York 10004

A copy of the packing list and warehouse receipt is also to be forwarded to:

J. M. Crook, Assistant to Vice President  
Bethlehem Steel Corporation  
Transportation Department  
Martin Tower  
Bethlehem, PA 18016

Your employee expense vouchers submitted for January and February, 1979, have been approved.

7. With reference to item #7 concerning the use of your private airplane for transportation to El Paso, Texas, we agree to pay you for such expenses at a rate of \$60.00 per hour for a single engine plane or \$85.00 per hour for a double engine plane. Please submit an employee expense voucher for these expenses.

8. With reference to item #8, we will continue to forward all correspondence to you at the following address:

L. D. Jameson  
1705 Princess Jeanne Drive  
Las Cruces, New Mexico 88001

Please promptly notify us of any change in address. You should forward your correspondence to me at the following address:

S. J. Shale  
Vice President, Mining  
Bethlehem Steel Corporation  
Martin Tower  
Bethlehem, PA 18016

We trust that you will find the above responses to your questions acceptable.

A statement indicating you are in agreement is inserted below. Please sign both copies of the letter on the space provided, keep a copy for your records, and return a copy to me.

Yours truly,

Vice President, Mining

Attachments

Statement of Agreement:

I have reviewed the memorandum dated February 15, 1979, outlining the mutually agreed upon terms of my impending resignation with Bethlehem Steel Corporation to be effective February 29, 1980, and the replies, as stated in this letter. I find the terms of the agreement and the replies to my questions to be acceptable.

April 3, 1979

Date

L. D. Jameson

**ATTACHMENT "A"**

February 15, 1979

**L. D. JAMESON**

Following are recommendations concerning the mutually agreed upon terms of the impending resignation of L. D. Jameson:

1. Bethlehem Steel Corporation agrees to pay L. D. Jameson full salary for 6 months — spread over a 12 month period from 03-01-79 to 02-29-80. Continue carrying on payroll until 02-29-80 at which time Mr. Jameson mutually agrees to submit formal resignation:

Current Salary: \$4,516/months = \$54,192/year  
Full Salary — 6 months = \$4,516 x 6 months  
= \$27,096

Spread over 12 months = \$27,096 + 12  
months = \$2,258/month  
(reduced monthly rate)

2. *Benefit Entitlements* under above conditions:

- a. Insurance coverage would continue through 02-29-80

b. Eligible for 1979 and 1980 vacation payments (approximate figures):

01-01-79 — 1 week ESVP week =  
\$1,042

1979 — 5 weeks vacation = (5 x  
\$521 = \$2,605) (based on reduced salary of  
\$27,096 or \$521/week)

07-01-79 — 1 ESVP week = (\$695)  
(calculated on 2 months full salary — 4  
months reduced salary)

1980 — 5 weeks vacation = (5 x  
\$521 = \$2,605) (based on reduced salary of  
\$27,096/year or \$521/week)

01-01-80 1 ESVP week = (\$521)

Approximate total vacation payments = \$7,468

c. *Savings Plan:* (Submitted application January 1, 1976; enrolled in Plan February 1, 1976, through July 31, 1976; Discontinued from August 1976 through December 1976 — Foreign assignment; Basic contribution resumed 01-01-77 until present time; 3% payroll deduction — basic contribution)

Options: (Based on termination effective February 29, 1980)

(1) May withdraw from Savings Plan prior to February 28, 1979, in accordance with the provisions of the Plan, whereby he would receive his basic contributions and earnings thereon, plus 6 months (02-01-76 to 07-31-76) vested Company contribution and earnings, or

(2) May discontinue basic contribution and leave balance in Savings Plan until 02-29-80, at which time he would receive his basic contribution and earnings, plus 1976 (6 months) and 1977 vested Company contribution and earnings, or

(3) May continue basic contribution of 3% on reduced salary of \$2,258/month until February 29, 1980, at which time, upon resignation and termination, Mr. Jameson would withdraw from Savings Plan and receive amount due him at that time which would include 1976 and 1977 vested Company contribution and earnings.

d. *Household effects and moving expenses:* Will agree to pay storage of household effects currently in storage at Madrid, Spain, for a period of up to 6 months. Expenses incurred in moving household effects back to United States will be paid if such move occurs within 6 months.

e. *Deferred Vested Pension:* Upon Mr. Jameson's formal resignation and termination as of February 29, 1980, he will have accumulated 10 years of continuous service with Bethlehem Steel Corporation and as such would be eligible to receive a deferred vested pension at age 65 or a reduced amount at age 60. Final monthly pension calculations will be determined upon effective date of termination — February 29, 1980.

ATTACHMENT "B"

PERSONAL & CONFIDENTIAL

March 2, 1978

QUESTIONS ASKED BY L. D. JAMESON CONCERNING MUTUALLY AGREED UPON TERMS OF HIS RESIGNATION DATED FEBRUARY 15, 1979 (COPY ATTACHED)

The following questions were asked by L. D. Jameson in a meeting with H. J. Ashe and M. H. Davidson on March 2, 1979:

1. The Resident Comptroller has terminated all payment of salary in Sierra Leone as of 01-31-79. Therefore it is assumed that full salary in dollars will be paid from 01-31-79 to 02-28-79. Although R. M. McCann indicated salary in Sierra Leone could be terminated on 01-06-79, Accounting went ahead and terminated it on 01-31-79, which costs me about \$1,000 additional S.L. tax.

Could termination date from Sierra Rutile Ltd. be changed to 01-06-79 (or 12-31-78)?

2. \*Reference Item 1. Is salary to be paid for 02-01-79 to 02-29-80, to be classified as "derived from foreign work" and therefore considered "foreign source income"? If so, withholding and reporting on Form 1099 will continue as before, while in foreign work.

Will social security deductions be made?

"I shall not be residing in or present in Sierra Leone in 1979. Therefore, I have not completed any of the forms attached with A. T. Smith's memo of February 2, 1979. I assume that withholding from all salary paid in 1979 will be the same as if the salary were earned in the United States."

3. \*Reference Item 2.a. If insurance coverage "is continued," it is assumed that both current insurance policies, including the one given to Management Group and the extra benefits in the medical and dental benefits given to Management Group will also continue during 02-01-79 to 02-29-80.

Will my three stock options be valid until 02-29-80? One is at 22%. It might be worth something during the next year.

4. \*Reference Item 2.b. As a member of the Management Group, I assume that on 01-01-79, six weeks of vacation accrued to me and not five weeks as stated for the calculation. About two years ago an extra week of vacation was given to Management Group, regardless of service in Company.

5. \*Reference Item 2.c. I request a statement of my Savings account as of December 31, 1978.

6. \*Reference Item 2.d. (a) I want to have my household effects shipped from Madrid during July, 1979, to a warehouse in El Paso, Texas, or Southern New Mexico, to be designated later by me. I shall go ahead and continue paying storage costs and submitting expense vouchers for reimbursement. I assume that the Transportation Department in New York (S. Moodies' Office) can arrange actual shipment from Madrid. I can forward a packing list and the warehouse receipt to that office. Please confirm that this arrangement is all right.

(b) Expense vouchers for transportation from Sierra Leone to Bethlehem.

(Employee expense voucher submitted for approval)

7. I desire to use my own airplane for transportation to El Paso on about 03-03-79 and to submit an

expense voucher for the expenses, according to previous vacation trips. Please confirm.

8. (a) My new address for forwarding all correspondence and calls is:

L. D. Jameson  
1705 Princess Jeanne Dr.  
Las Cruces, New Mexico 88001  
Telephone (505) 526-5971

(b) Please indicate with whom I should correspond regarding salary and entitlements.

\*Reference is to terms listed in February 15, 1979 memorandum.

**GENERAL PENSION BOARD  
BETHLEHEM STEEL CORPORATION AND  
SUBSIDIARY COMPANIES**

June 12, 1980

Russell S. Johnson, Esquire  
Messrs. Johnson, Johnson & Johnson  
Attorneys at Law  
1725 One Dallas Centre  
Dallas, Texas 75201

Dear Mr. Johnson:

This is in further reference to your March 17, 1980, letter requesting (1) advice concerning the pension benefits to which L. D. Jameson, a former Bethlehem employee, is entitled and (2) a copy of the Bethlehem Pension Plan, applicable in his case.

In accordance with your request, I have enclosed for your information a copy of the Bethlehem 1977 Salaried Pension Plan (the Plan) which is applicable in Mr. Jameson's case.

Mr. Jameson's employment record indicates that he was born on November 11, 1922, and that his employment with Bethlehem was as follows:

<u>Date</u>	<u>Remarks</u>
5/5/53 . . . . .	Employed — Iron Mines Company of Venezuela
2/28/70 . . . . .	Terminated employment at Iron Mines Company of Venezuela
3/1/70 . . . . .	Rehired for position of Manager, Progema in Spain
6/1/75 . . . . .	Transferred to position of Special Assistant to Vice President in Sierra Leone
2/29/80 . . . . .	Work Notice (Quit) — continuous service broken

Paragraph 5.1 of the Plan provides that "continuous service" for purposes of the Plan means continuous service in the employ of one or more Employing Companies prior to retirement calculated from the employee's last hiring date in accordance with the Plan; provided, however, that the last hiring date prior to the effective date of the Plan shall be based on the practices in effect at the time a break occurred. This language is, of course, consistent with the provisions of ERISA.

Based upon his employment with Iron Mines Company of Venezuela in Venezuela from May 5, 1953, to February 28, 1970, Mr. Jameson became entitled to separation benefits (cesantia and antiquedad), payable pursuant to Venezuelan law. Our records indicate that he was in fact paid such a severance allowance in the amount of \$62,000 and that such funds were transferred to Mr. Jameson's account at the State National Bank, El Paso, Texas, pursuant to his authorization at that time.

The policy in effect at the time of Mr. Jameson's termination of his Venezuelan employment and rehiring by Bethlehem in 1970 provided that with respect to any

"terminated" Iron Mines Company of Venezuela employee who is immediately rehired at another Bethlehem operation, the payment of cesantia and antiguedad represented a "pay-off" for the years of service during which such payment was built up and unless he repays that amount under an arrangement acceptable to the company at the time he is rehired at another Bethlehem operation, he begins at such other operation as a new employee. In such a case the employee is not entitled to be credited with service prior to the date of rehire. In accordance with that policy, Mr. Jameson was given the opportunity to repay the cesantia and antiguedad payment he received based on his Venezuelan employment but he did not do so.

Based on the above, Mr. Jameson's length of continuous service for the purpose of determining his Bethlehem pension benefits is limited to his service from March 1, 1970, to February 29, 1980. Accordingly, he is entitled to a deferred vested pension in accordance with Paragraph 2.8, described beginning on page 7, of the enclosed copy of the Plan. A copy of the "Notice" sent to Mr. Jameson, showing the essential facts regarding his pension entitlement, is enclosed for your information.

I trust the above answers the questions you have raised in your March 17, 1980, letter. However, if you have further questions concerning Mr. Jameson's retirement benefits or his rights under the Plan, please feel free to contact me.

Sincerely,

D.W. KEMPKEN  
*Secretary, General Pension Board*

**BETHLEHEM  
1968 SALARIED  
PENSION PLAN**

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Pension Plan of Bethlehem Steel Corporation and Subsidiary Companies adopted January 25, 1923, as amended July 31, 1968, applicable to eligible salaried employees.

(Including Surviving Spouse's Benefit  
Effective August 1, 1969)

**SECTION 5. DETERMINATION OF CONTINUOUS SERVICE**

- 5.1 The term "continuous service" as used in this Plan means continuous service in the employ of one or more of the Employing Companies, except as in this Section 5 otherwise provided. The number of years of continuous service of any participant shall be conclusively determined for all purposes of this Plan by the General Pension Board. For all participants who were former employees of another employer designated by the General Pension Board as being engaged in activities relating to or affecting the interests of any of the Employing Companies or a predecessor company, the number of years of service (excluding any period of service for which the participant is entitled to a vested benefit under another pension plan) with such other employer shall be included in continuous service for purposes of this Plan; provided, however, that all eligible employees of such other employer who shall become employees of an Employing Company shall become participants in this Plan and shall be treated uniformly so that the inclusion of such service in continuous service does not result in discrimination in

favor of officers, shareholders, persons whose principal duties consist in supervising the work of other employees or highly compensated employees, and provided, further, that no participant first employed on or after July 31, 1968, shall be given credit for any service in the employ of any employer other than an Employing Company unless such employer either becomes an Employing Company or is merged into an Employing Company or unless this Plan shall be amended to specifically provide for the crediting of service in the employ of such employer.

